



# The condominium as workplace

Condominiums are communities, and for the managers, security personnel, housekeeping staff and contractors who keep them in good order, they are also workplaces. Condo corporations need to be aware of their responsibilities under the law to maintain safe workplaces.

BY JEANETTE BICKNELL

All Ontario employers are responsible for upholding Bill 168, an amendment to the Occupational Health and Safety Act which has been in effect since 2010. It establishes minimum standards and sets out basic rights and responsibilities. Although employers may feel that they “know it when they see it,” it is a good idea for them to familiarize themselves with the legal definitions of workplace violence and harassment.

## Defining workplace violence and harassment

“Workplace violence” means the use, attempt or threat to use physical force that causes, or could cause, injury in a workplace.

The threat of violence includes threatening notes, emails, or telephone calls.

“Harassment” is defined as a course of vexatious or bothersome comment or conduct that is unwelcome, or ought reasonably to be known to be unwelcome. Examples include bullying, intimidating or offensive jokes or innuendos, displaying or circulating offensive pictures or materials, and making offensive or intimidating phone calls.

A “course” of comment or conduct implies that the behaviour in question has happened more than once. (For example, a unit owner who regularly yells at a property manager could reasonably be accused of

workplace harassment.) It is worth noting that domestic violence that takes place in a workplace is covered under the Act, and that employers have a duty to protect workers from domestic violence in the workplace.

## Understanding the employer’s obligations

Employers must have measures and procedures in place to control the risk of violence and harassment. It is not relevant who commits or threatens violence or harassment. Employers have a duty to assess the risks and to consider all potential sources. So in a condominium, this could mean another worker, a supervisor, a unit owner, a renter, or even a random stranger.

Every employer must have a policy on violence and a policy on harassment (or a single policy on both). If an employer has six or more regular employees, then the policy must be written down, reviewed annually, and posted in the workplace.

Employers must also have a program to implement the policy, and they must make sure that employees are informed about both the policy and the program. (Some tools for developing policies can be found here: [http://www.labour.gov.on.ca/english/hs/pubs/wvps\\_toolbox/index.php](http://www.labour.gov.on.ca/english/hs/pubs/wvps_toolbox/index.php).)

Finally, employers must warn workers if, in the course of their work, they will be in contact with a person with a history of violence, and if they are at risk of physical injury. Privacy concerns may be relevant here, but the right to privacy does not trump the duty to inform workers if they are at risk. (Condo corporations in such positions should consult with their lawyers for advice tailored to their specific situation.)

**Responding to inappropriate behaviour**

The basic thrust of Bill 168 is that employers have a duty to recognize inappropriate behaviour and deal with it

promptly. If an employer notices improper behaviour, he or she should step in before things get too serious.

Doing nothing gives the message to perpetrators that their actions will be tolerated and adds to the disrespect that victims already feel. It can also leave employers vulnerable to investigation by the Ministry of Labour.

Having a policy on proper conduct in the workplace makes the employer’s job easier because it sets out clear standards for unacceptable behaviour and reminds everyone of these standards.

If an employee makes a complaint, or if an employer becomes aware of inappropriate behaviour in the workplace, the employer must do an investigation. Investigations are serious matters. Personal reputations are at stake, so the stress level — even for those not directly involved — is likely to be high.

If an investigation is warranted, do it properly to avoid future legal hassles and costs. To start with, the employer must inform the respondent (i.e. the person who is accused of harassment, etc.) of the accusations against him or her. The

respondent must be given a chance to tell his or her side of the story.

It is important to choose an investigator who is not biased, and who does not give the impression of being biased. (For example, a friend or associate of either the complainant or the respondent should not be selected as investigator.)

What happens after the investigation depends very much on the seriousness of the complaint, the roles of those involved, and on the consequences that have been laid out in the written policy on violence and harassment (another reason to make sure that the policy is clear and up-to-date).

Paying attention to the legal implications of the condominium as workplace helps condo corporations ensure that they meet their responsibilities as employers and ultimately makes it a better community for owners and employees alike. □

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